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June 1, 2020

Filed via ECF

The Honorable Cynthia M. Rufe
United States District Court
for the Eastern District of Pennsylvania
James A. Byrne U.S. Courthouse
601 Market Street, Suite 12614
Philadelphia, PA 19106

Re: *In re: Generic Pharmaceuticals Pricing Antitrust Litigation*, MDL No. 2724

Dear Judge Rufe:

We write on behalf the undersigned private plaintiffs, pursuant to the Court's May 27 Order (Docket No. 1390), to state our position with regard to the potential effect on bellwether selection of the Plaintiff States' anticipated filing of a third complaint in June 2020.

The States' new complaint will have no effect on the selection of bellwethers for the Classes. Special Master Marion has recommended the Clobetasol, Clomipramine and Pravastatin cases as bellwethers for the EPP and DPP Classes and has noted that the Kroger DAPs seek to participate in the bellwethers unless doing so becomes infeasible. The EPP and DPP individual drug cases have been pending for more than three years, and they are representative of the 51 single-drug cases, all of which were filed in 2016 and 2017. The States' new complaint will not change any of that. The single-drug cases still will be the oldest cases in the MDL; as a category, they still will need to be included in the bellwether process; and nothing in the new States' complaint will change the appropriateness of the Clobetasol, Clomipramine and Pravastatin cases as the single-drug bellwethers.

Indeed, as noted in Mr. Nielsen's recent letter, the States' third complaint will not even affect the selection of the States' bellwether, as no party is going to advocate that the new complaint be a bellwether.

Waiting several weeks for the filing of the new complaint, followed (presumably) by a request from Defendants for yet more briefing and oral argument, will yield nothing but delay. The Court ordered the bellwether selection process in October 2019. After numerous meetings

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and written submissions in an adversarial process, Special Master Marion issued his Report and Recommendation in February 2020. Since that time, Defendants have submitted six briefs, and Plaintiffs have submitted two, plus the current round of letters. The issue is joined. There is nothing to be gained, but much time to be lost, from yet more process.

Very truly yours,

/s/ Roberta D. Liebenberg

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